

1 Defendants and Counterclaimants Rosadia D. Escueta, Paul Thornton, Chong A. Im,
 2 Individually and as Trustee of the Chong A. Im Trust dated 9/21/07, Kevin Im and Jackie Im
 3 (hereinafter collectively referred to as “COUNTERCLAIMANTS”), by and through their respective
 4 counsel of record, Jeffrey A. Feldman and Thomas H. Porter of the Law Offices of Jeffrey A.
 5 Feldman, and the Plaintiff and Counterdefendant John H. Sykes (“COUNTERDEFENDANT”), by
 6 and through his counsel of record, Chad R. Fuller, hereby enter into this stipulation
 7 (“STIPULATION”) with regard to the following facts:

8 A. COUNTERDEFENDANT has filed a motion pursuant to Federal Rule of Civil
 9 Procedure 12(b)(6) with respect to the COUNTERCLAIMANTS’ Counterclaim, which was filed by
 10 the COUNTERCLAIMANTS on January 7, 2011. The 12(b)(6) motion is currently scheduled to be
 11 heard by the Court on May 13, 2011, at 10:00 a.m. COUNTERCLAIMANTS’ opposition to the
 12 motion is due April 22, 2011.

13 B. Also on May 13, 2011 at 10:00 a.m., the Initial Case Management Conference in
 14 this matter is scheduled. Likewise, per the Court’s order setting the Initial Case Management
 15 Conference and ADR deadlines, the last day for the parties to file a Rule 26(f) report, complete
 16 initial disclosures, or state objection in Rule 26(f) report and file a case management statement, is
 17 May 6, 2011.

18 C. COUNTERCLAIMANTS have entered into settlement agreements and releases with
 19 the insurance company of a brokerage firm, GunnAllen Financial, Inc. (“GunnAllen”), which
 20 insurance ostensibly also covers COUNTERDEFENDANT. COUNTERCLAIMANTS have also
 21 entered into a mutual release with COUNTERDEFENDANT. GunnAllen is currently in a Chapter
 22 11 bankruptcy proceeding in the United States Bankruptcy Court, Middle District of Florida, Tampa
 23 Division, Case No. 8:10-bk-09635-MGW. These settlement agreements and releases have been
 24 fully executed and approved by the bankruptcy Judge. Now that the settlements have been
 25 approved, the parties are awaiting the final, non appealable Order from the bankruptcy court , after
 26 which payment will issue and this matter will be fully resolved. The parties anticipate that the Order
 27 should issue at or near the end of April 2011, and that payment should be made within 30 days
 28 thereafter.

1 D. In order to allow sufficient time for the settlement to be concluded, which settlement
 2 will result in the dismissal of these proceedings, and to avoid wasting the parties' and the Court's
 3 time and resources in this matter, the parties herein have stipulated to a withdrawal without
 4 prejudice of COUNTERDEFENDANT's 12(b)(6) motion with respect to the Counterclaim, and to a
 5 stay of these proceedings to August 31, 2011 pending completion of the terms of the settlement. In
 6 the event that the settlement is not completed by August 31, 2011, COUNTERDEFENDANT will
 7 re-notice the 12(b)(6) motion and the case will be placed back on the Case Management Conference
 8 calendar.

9 NOW THEREFORE, IT IS HEREBY STIPULATED by and between
 10 COUNTERCLAIMANTS Rosadia D. Escueta, Paul Thornton, Chong A. Im (individually, and as
 11 Trustee of the Chong A. Im Trust dated 9/21/07), Kevin Im and Jackie Im, and
 12 COUNTERDEFENDANT John H. Sykes, that subject to the Court's approval:

13 a. The 12(b)(6) motion filed by COUNTERDEFENDANT is hereby withdrawn without
 14 prejudice and this case stayed until August 31, 2011, pending completion of the terms
 15 of the above referenced settlement. If the settlement is not completed by August 31,
 16 2011, COUNTERDEFENDANT will re-notice the motion and the Case Management
 17 Conference will be placed back on calendar.

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 19 DATED: April 21, 2011

LAW OFFICES OF JEFFREY A. FELDMAN

20 By /S/ Jeffrey A. Feldman

Jeffrey A. Feldman

Attorneys for Counterclaimants
 Rosadia D. Escueta, Paul Thornton, Chong A.
 Im (individually, and as trustee of the Chong A.
 Im Trust dtd. 9/21/07), Kevin Im, and Jackie Im

21
 22 DATED: April 21, 2011

FOLEY & LARDNER LLP

23 By /S/ Chad R. Fuller

Chad R. Fuller

Attorneys for Counterdefendant
 John H. Sykes



1 PURSUANT TO STIPULATION, IT IS SO ORDERED:

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4 Dated: _____, 2011

5 Hon. Samuel Conti, Judge
United States District Court

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